

contrary to clear and convincing facts contained in the record considered as a whole.

(h) **DISSEMINATION OF INFORMATION ON ADJUSTMENT PROGRAM.**—Beginning not later than the first day of the application period described in subsection (a)(1)(B), the Secretary, in cooperation with qualified designated entities, shall broadly disseminate information respecting the benefits that aliens may receive under this section and the requirements to be satisfied to obtain such benefits.

(i) **REGULATIONS.**—The Secretary shall issue regulations to implement this section not later than the first day of the seventh month that begins after the date of enactment of this Act.

(j) **EFFECTIVE DATE.**—This section shall take effect on the date that regulations are issued implementing this section on an interim or other basis.

(k) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary to carry out this section \$40,000,000 for each of fiscal years 2006 through 2009.

SEC. 712. CORRECTION OF SOCIAL SECURITY RECORDS.

(a) **IN GENERAL.**—Section 208(d)(1) of the Social Security Act (42 U.S.C. 408(d)(1)) is amended—

(1) in subparagraph (B)(ii), by striking “or” at the end;

(2) in subparagraph (C), by inserting “or” at the end;

(3) by inserting after subparagraph (C) the following:

“(D) who is granted status as a lawful temporary resident under the Agricultural Job Opportunity, Benefits, and Security Act of 2005.”; and

(4) by striking “1990.” and inserting “1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred before the date on which the alien was granted lawful temporary resident status.”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on the first day of the seventh month that begins after the date of enactment of this Act.

Subtitle B—Reform of H-2A Worker Program **SEC. 721. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.**

(a) **IN GENERAL.**—The Immigration and Nationality Act is amended by striking section 218 (8 U.S.C. 1188) and inserting the following:

“H-2A EMPLOYER APPLICATIONS

“SEC. 218. (a) APPLICATIONS TO THE SECRETARY OF LABOR.—

“(1) **IN GENERAL.**—No alien may be admitted to the United States as an H-2A worker, or otherwise provided status as an H-2A worker, unless the employer has filed with the Secretary of Labor an application containing—

“(A) the assurances described in subsection (b);

“(B) a description of the nature and location of the work to be performed;

“(C) the anticipated period (expected beginning and ending dates) for which the workers will be needed; and

“(D) the number of job opportunities in which the employer seeks to employ the workers.

“(2) **ACCOMPANIED BY JOB OFFER.**—Each application filed under paragraph (1) shall be accompanied by a copy of the job offer describing the wages and other terms and conditions of employment and the bona fide occupational qualifications that shall be possessed by a worker to be employed in the job opportunity in question.

“(b) **ASSURANCES FOR INCLUSION IN APPLICATIONS.**—The assurances referred to in subsection (a)(1) are the following:

“(1) **JOB OPPORTUNITIES COVERED BY COLLECTIVE BARGAINING AGREEMENTS.**—With respect to a job opportunity that is covered under a collective bargaining agreement:

“(A) **UNION CONTRACT DESCRIBED.**—The job opportunity is covered by a union contract which was negotiated at arm's length between a bona fide union and the employer.

“(B) **STRIKE OR LOCKOUT.**—The specific job opportunity for which the employer is requesting an H-2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

“(C) **NOTIFICATION OF BARGAINING REPRESENTATIVES.**—The employer, at the time of filing the application, has provided notice of the filing under this paragraph to the bargaining representative of the employer's employees in the occupational classification at the place or places of employment for which aliens are sought.

“(D) **TEMPORARY OR SEASONAL JOB OPPORTUNITIES.**—The job opportunity is temporary or seasonal.

“(E) **OFFERS TO UNITED STATES WORKERS.**—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or the nonimmigrants are, sought and who will be available at the time and place of need.

“(F) **PROVISION OF INSURANCE.**—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

“(2) **JOB OPPORTUNITIES NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS.**—With respect to a job opportunity that is not covered under a collective bargaining agreement:

“(A) **STRIKE OR LOCKOUT.**—The specific job opportunity for which the employer is requesting an H-2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

“(B) **TEMPORARY OR SEASONAL JOB OPPORTUNITIES.**—The job opportunity is temporary or seasonal.

“(C) **BENEFIT, WAGE, AND WORKING CONDITIONS.**—The employer will provide, at a minimum, the benefits, wages, and working conditions required by section 218A to all workers employed in the job opportunities for which the employer has applied under subsection (a) and to all other workers in the same occupation at the place of employment.

“(D) **NONDISPLACEMENT OF UNITED STATES WORKERS.**—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment and for a period of 30 days preceding the period of employment in the occupation at the place of employment for which the employer seeks approval to employ H-2A workers.

“(E) **REQUIREMENTS FOR PLACEMENT OF NON-IMMIGRANT WITH OTHER EMPLOYERS.**—The employer will not place the nonimmigrant with another employer unless—

“(i) the nonimmigrant performs duties in whole or in part at 1 or more work sites owned, operated, or controlled by such other employer;

“(ii) there are indicia of an employment relationship between the nonimmigrant and such other employer; and

“(iii) the employer has inquired of the other employer as to whether, and has no actual knowledge or notice that, during the pe-

riod of employment and for a period of 30 days preceding the period of employment, the other employer has displaced or intends to displace a United States worker employed by the other employer in the occupation at the place of employment for which the employer seeks approval to employ H-2A workers.

“(F) **STATEMENT OF LIABILITY.**—The application form shall include a clear statement explaining the liability under subparagraph (E) of an employer if the other employer described in such subparagraph displaces a United States worker as described in such subparagraph.

“(G) **PROVISION OF INSURANCE.**—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

“(H) **EMPLOYMENT OF UNITED STATES WORKERS.**—

“(i) **RECRUITMENT.**—The employer has taken or will take the following steps to recruit United States workers for the job opportunities for which the H-2A nonimmigrant is, or H-2A nonimmigrants are, sought:

“(I) **CONTACTING FORMER WORKERS.**—The employer shall make reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any United States worker the employer employed during the previous season in the occupation at the place of intended employment for which the employer is applying for workers and has made the availability of the employer's job opportunities in the occupation at the place of intended employment known to such previous workers, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

“(II) **FILING A JOB OFFER WITH THE LOCAL OFFICE OF THE STATE EMPLOYMENT SECURITY AGENCY.**—Not later than 28 days before the date on which the employer desires to employ an H-2A worker in a temporary or seasonal agricultural job opportunity, the employer shall submit a copy of the job offer described in subsection (a)(2) to the local office of the State employment security agency which serves the area of intended employment and authorize the posting of the job opportunity on ‘America's Job Bank’ or other electronic job registry, except that nothing in this subclause shall require the employer to file an interstate job order under section 653 of title 20, Code of Federal Regulations.

“(III) **ADVERTISING OF JOB OPPORTUNITIES.**—Not later than 14 days before the date on which the employer desires to employ an H-2A worker in a temporary or seasonal agricultural job opportunity, the employer shall advertise the availability of the job opportunities for which the employer is seeking workers in a publication in the local labor market that is likely to be patronized by potential farm workers.

“(IV) **EMERGENCY PROCEDURES.**—The Secretary of Labor shall, by regulation, provide a procedure for acceptance and approval of applications in which the employer has not complied with the provisions of this subparagraph because the employer's need for H-2A workers could not reasonably have been foreseen.

“(ii) **JOB OFFERS.**—The employer has offered or will offer the job to any eligible United States worker who applies and is